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EXAMINER

BOVEJA, NAMRATA

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3622

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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. This office action is in response to communication filed on 04/19/2006.
2. Claims 1-32, 37, and 38 are presented for examination.
3. Amendments to the claims and drawings have been entered and considered.
4. Newly submitted claims 33-36 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Claims 1-32, 37, and 38, drawn to a method and system for providing a centralized polling environment, comprising the steps of creating and archiving polls in a storage area, searching the archived poll by selecting polls that are more relevant to a user based on the user responses to previous polls, placing polls on a web page, wherein archiving includes comprises of seeking and obtaining approval based on poll content, delivering the web page to a user, and building a user profile based on said interaction, classified in class 705, subclass 14.
- III. Claims 33-36, drawn to a method for providing a centralized polling environment, comprising the steps of receiving and archiving a first poll from a first user, selecting a first poll for placement in a web page corresponding to a first affiliate,

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based on the identity of said first affiliate and first user requesting the page, delivering the poll to the first affiliate to permit viewing and interaction in real time by first user, and updating the profile for said first user based on the interaction, classified in class 705, subclass 14.

5. Inventions of groups I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of group II has separate utility such as selecting a first poll for placement in a web page corresponding to a first affiliate, based on the identity of said first affiliate and first user requesting the page, delivering the poll to the first affiliate to permit viewing and interaction in real time by first user, and updating the profile for said first user based on the interaction, which does not involve searching the archived poll by selecting polls that are more relevant to a user based on the user responses to previous polls and building a user profile based on said interaction. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original

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presentation for prosecution on the merits. Accordingly, claims 33-36 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

6. *The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:*

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

There are two separate requirements set forth in this paragraph:

(A) the claims must set forth the subject matter that applicants regard as their invention; and

(B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

Claims 30 and 32 are rejected under 35 U.S.C. 112, second paragraph, since the recitation that the archiving step further comprises rating and indexing is unclear and doesn't recite how this actually happens. Specifically, rating and indexing are functions as is archiving. So, the use of the term that the archiving step comprises of two additional functions is unclear. It is interpreted to mean that first the Applicant performs the function of indexing or rating and then performs the additional function of archiving. As stated, it is unclear what is the Applicant's trying to claim here. Appropriate correction is required.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. *Claims 1-32, 37, and 38, are rejected under 35 U.S.C. 103(a) as being unpatentable over Boe et al. Patent Number 6,236,975 (hereinafter Boe) in view of Desai et al. Patent Number 6,618,746 (hereinafter Desai).*

Boe discloses a targeted marketing system and method that provides a customer with customer questions, receives responses to the customer questions from the customer, and stores data associated with the responses. The customer is provided with a feedback page that graphically illustrates data associated with the customer's standing in a selected peer group. The customer is provided with options operable to adjust the customer's actual demographic to a hypothetical demographic, and data associated with hypothetical demographic changes from the customer is received and processed. Hypothetical feedback information is then displayed that graphically illustrates the hypothetical standing of the customer within the selected peer group such that the customer can see the effect of the hypothetical demographic changes.

As to claims 1, 5, 15, 19, 29, and 31, Boe discloses *a method and system of creating and delivering polls* (set of questions which can be different sets for each product offered by a certain business) (see at least Fig. 2 and associated

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text; col. 6 lines 9-45); archiving said polls in a storage area) (see at least Fig. 2, items 22 and 24, and associated text, and col. 6 lines 9-45); searching the archived polls to select a set of said polls using matching terms within poll content descriptors associated with each archived poll (see at least Fig. 2 and associated text, col. 6 lines 9-45, and indexing and searching per business ID, per product/service category, per customer ID/demographics); placing one of said selected polls in a webpage and delivering that page to permit user viewing and interaction with said one the selected polls in real time (see at least Fig. 2 and associated text); and building a profile for one of said users based on said interaction (see at least col. 4 lines 47-60; customer profiles are implicitly generated following the interaction to allow further targeting by businesses (Fig. 6a items 228-234 and associated text). *Boe implicitly discloses archiving comprises seeking and obtaining approval for indexing based on contents of each of said new polls. Implicitly Boe discloses indexing of polls contents according to predefined guidelines (see at least col. 6 lines 9-45: indexing per business ID, per product/service category, per customer ID/ demographics). Indexing (based on the contents of each of said polls) in accordance with those predefined guidelines implicitly means approval by the database administrator has been sought and obtained, since when a user tries to gain access to index items, he is in effect seeking approval to do so. Boe does not clearly teach searching the archived polls wherein the searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls, while it does discuss skipping questions based on previous responses (col.*

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6 lines 29-46). Desai teaches searching the archived polls wherein the searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls (col. 3 lines 51 to col. 4 lines 22 and col. 4 lines 54-59) (i.e. by presenting the user with branching and piping questions and thereby narrowly tailoring the subsequent sequence of polls presented to the user based on the user's particular responses). It would have been obvious to modify Boe to include searching the archived polls wherein the searching further comprises selecting polls that are more relevant to a user as taught by Desai, in order to achieve more realistic and relevant dialogues with the customers as a result of better linking between the questions.

8. As to claims 2 and 16, Boe discloses creating polls comprises forming a question and plural possible answer choices (see at least Fig. 4 and associated text).

9. As to claims 3 and 17, Boe implicitly discloses archiving comprises seeking and obtaining approval for indexing based on contents of each of said new polls. Implicitly Boe discloses indexing of polls contents according to predefined guidelines (see at least col. 6 lines 9-45: indexing per business ID, per product/service category, per customer ID/ demographics). Indexing (based on the contents of each of said polls) in accordance with those predefined guidelines implicitly means approval by the database administrator has been sought and obtained, *since when a user tries to gain access to index items, he is in effect seeking approval to do so.*

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10. As to claims 4 and 18, *Boe* implicitly discloses archiving polls (sets of questions) comprises rating (categorizing) and indexing contents according to predefined guidelines (see at least col. 6 lines 9-45: per business ID, per product/service category, per customer ID/demographics).
11. As to claims 6 and 20, *Boe* implicitly discloses searching function comprises defining said matching terms according to a marketing campaign (Fig. 2 and associated text; col. 6 lines 9-28: survey questions and answers are generated based on the particular business products/services to be sold and the business preferences thus the above is implied).
12. As to claims 7 and 21, *Boe* discloses the placing function further comprises embedding a new reference link with said web page (Fig. 4c, items 519, 520 and associated text).
13. As to claims 8 and 22, *Boe* discloses embedding a new reference link written in JavaScript (see at least col. 10 lines 23-50; col. 14 lines 19-22).
14. As to claims 9 and 23, *Boe* discloses positioning said selected poll (question) in a predefined area of said webpage (see at least Fig. 4d item 524 and associated text).
15. As to claims 10, and 24, *Boe* discloses refreshing the webpage (see at least col. 10 lines 23-50; col. 12 lines 3-11; col. 14 lines 39-41) and providing results of said one of selected polls within said a webpage (Figs. 4e and associated text; col. 11 line 50 to col. 12 line 11; col. 14 lines 39-41).
16. As to claims 13 and 27, *Boe* discloses keeping a record of such interaction (see at least Figs 2, items 56, 58; Fig. 6b and associated text).

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17. As to claims 14 and 28, Boe discloses archiving said record in a second database (see at least Figs 2, items 56, 58 are databases; Fig. 6b and associated text).

18. *As to claim 37, Boe discloses the method further comprising selecting advertising content based on the user profile, associating the advertisement with a second one of said selected polls, placing the second one of said selected polls and the associated advertisement in a web page, and delivering the Web page to permit user viewing advertisement and interaction with the second poll and the associated advertisement (col. 6 lines 47 to col. 7 lines 8 and Fig. 4b and 4d and associated text).*

19. *As to claim 38, Boe discloses the method further comprising updating the user profile based on the interaction with the second poll (col. 6 lines 58 to col. 7 lines 8).*

20. Claims 11, 12, 30, 32, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boe in view of Official Notice.

As to claims 11, 12, 25, and 26, Boe does not specifically disclose building profile comprising embedding a tag as a cookie on the user computer. However, Official Notice is taken that cookies are well known information files that a website puts on a users hard *drive* so that it can remember something about the user at a later time. Typically, a cookie records the user preferences when a *user* is using a particular site. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add cookies as tags to the user

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computer *in* Boe in order to implement Boe's *record* keeping *functionality* of the user's interactions.

21. *As to claims 30 and 32, Boe does not specifically disclose the method and system wherein said archiving step further comprises rating and indexing said contents according to predefined guidelines. Official Notice is taken that it is well known to index e-mail messages by sender, by subject, by date, by attachments, etc to make it easy to search after the messages are archived in an off-line folder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the function of indexing to the polls in Boe to make it easy to search the polls by date or subject for example and therefore to save time associated with searching the polls.*

Response to Arguments

22. After careful review of Applicant's remarks/arguments filed on 04/19/2006, the Applicant's arguments with respect to claims 1-32, 37, and 38 have been considered but are not persuasive. Amendments to claims 1-32, 37, and 38 and to the drawings have both been entered and considered.

Newly added claims 33-36 have not been considered. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-36 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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23. As to claims 3 and 17, the Applicant argues that Boe does not teach obtaining approval based on contents of each of said polls by a human staff member. Examiner would like to point out to the applicant, that the Applicant has not claimed this feature of human approval. What is claimed is the method wherein said archiving step further comprises seeking and obtaining approval based on the contents of each of said polls. *Boe* implicitly discloses archiving comprises seeking and obtaining approval for indexing based on contents of each of said new polls. Implicitly *Boe* discloses indexing of polls contents according to predefined guidelines (see at least col. 6 lines 9-45: indexing per business ID, per product/service category, per customer ID/ demographics). Indexing (based on the contents of each of said polls) in accordance with those predefined guidelines implicitly means approval by the database administrator has been sought and obtained, *since when a user tries to gain access to index items, he is in effect seeking approval to do so. In case the Applicant is attempting to claim a manual approval process, the Examiner would like to refer the Applicant to Bernardo et al. Patent Number 6,247,032 that teaches manually approving web site content including surveys by various members of an organization who have varying responsibilities to carry out in associated with the web site (see col. 10 and col. 11).*

24. A 35 USC § 112 second paragraph rejection has been made for claims 30 and 32, since the claimed language is unclear in that it recites that the step of archiving comprises of rating and indexing. Rating and indexing are considered to be functions as is archiving. So, the use of the term that the archiving step

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comprises of two additional functions is unclear. It is interpreted to mean that first the Applicant performs the function of indexing or rating and then performs the additional function of archiving. As stated, it is unclear what is the Applicant's trying to claim here.

25. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Bernardo Patent Number 6,247,032. Teaches manual approval of web site content by different members of an organization such as by editors and graphic designers.

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **CENTRAL FAX** phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).



N.B.

June 22nd, 2006

RETTA YEHDEGA
PRIMARY EXAMINER